

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 16, 2002
(Approved May 6, 2002)

CALL TO ORDER/NOTING OF QUORUM

Chairperson DePrez called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass, Commissioner Davis and Commissioner Marks. Also in attendance were Superintendent Davis, Executive Secretary Steiner, and Industry Liaison Okey.

Ronna Chappell of ILBA, Jim Purucker and Pam Ferguson of WSWI, Lisa Goldner of Bose McKinney and Evans, Mark Shublak of Ice Miller, Debra Scott of IABR, Jeff Linkon, Greg and Myra Riley, and Robert Hartley were present as observers.

COMMUNICATIONS FROM THE FLOOR

There were no Communications From the Floor.

DISPOSITION OF MINUTES

Commissioner Marks moved to approve the minutes that were submitted for the April 2, 2002 meeting. Motion seconded by Commissioner Davis and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

Vice Chairperson Glass moved to approve the PAD forms that were submitted for the April 16, 2002 meeting. Motion seconded by Commissioner Davis and it was unanimously approved.

APPEAL OF HEARING JUDGE'S RECOMMENDATIONS

There were no Appeals of Hearing Judge's Recommendations.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Davis and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Davis and it was unanimously approved.

Four hundred seventy-seven (477) renewals approved, fifty-seven (57) new and/or transfer permits approved, eight (8) permits conditionally approved, six (6) permits approved for first year escrow, and eleven (11) permits approved for second year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Marks moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Davis and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR89-07036 E & J MAY, INC./ RUBY TUESDAY, INC. – Vice Chairperson Glass noted this is a type 210 renewal application a and transfer of location and ownership application with the local board voting two (2) to zero (0) to approve.

Chairperson DePrez stated that shortly after being appointed to this Agency, she was presented with the situation involving this permit. Her predecessor stated that this permit was not to be renewed or transferred and would be made dead. However, after further investigation it was noted that an agreement was reached between ATC Prosecutor Fred Bauer and the permittee. The Agreement stated that after the fines were paid, the permittee could either forfeit the permit or transfer the permit (subject to local board approval). The Hearing Judge and all of the Commissioners signed this Agreement. The permittee filed a transfer of ownership application and the matter was sent to the local board. At the local board hearing, two (2) members voted to approve the renewal and transfer of the permit, one (1) member abstained. The Chairperson stated that there is an Indiana Supreme Court case that states when a quorum is present and a majority of the quorum present votes in favor of a measure, the measure will prevail even if an equal number of members abstain. Because of this, the matter before the Commission, with two (2) affirmative votes and one (1) abstention, the abstention can be considered an affirmative vote. Also, it was brought to the Commission that the renewal voted on did not bring the permit current so that it could actually be transferred. Chairperson DePrez stated that because this permit was returned to the local board by order of the Commission, it is covered by 905 IAC 1-17-4. She also stated that the Commission received a letter from the Mayor of Richmond requesting that this transfer be approved.

Chairperson DePrez stated that she reviewed the file and listened to the tape of the local board hearing and would vote to approve this renewal and transfer.

Vice Chairperson Glass stated that she also had reviewed the file and listened to the tape and, therefore, moved to approve the renewal and transfer of this permit. Motion seconded by Commissioner Davis and it was unanimously approved.

DL49-14280 M & G RILEY, INC. – Vice Chairperson Glass noted this is a type 217 renewal application with the local board voting two (2) to two (2).

Chairperson DePrez stated that she reviewed the file and listened to the tapes of the local board hearing concerning this renewal. She also reviewed the recommended order that was signed by the Hearing Judge and the Commission for last year's renewal. The Chairperson stated that she did not see much change from last year, except that the permittee had gone above and beyond what is required and that they should be commended for trying to be a responsible neighbor. Chairperson DePrez stated that the neighborhood should welcome all of the steps the permittee has taken to make their business a better neighbor.

Vice Chairperson Glass stated that she had also reviewed the file and moved to approve the renewal of this permit.

Commissioner Davis stated he also reviewed the file and went to the establishment. He seconded the motion to approve. Chairperson DePrez and Commissioner Marks also voted to approve this renewal.

RR45-82281 JASSY, INC. – Vice Chairperson Glass noted this is a type 208 renewal application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the renewal. Motion seconded by Commissioner Davis and it was unanimously approved.

RR45-06425 FRANKLIN D. BANKS, JR. – Vice Chairperson Glass noted this is a new Sunday sales application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Marks and it was unanimously approved.

RR70-19679 NANSI A CUSTER – Vice Chairperson Glass noted this is a new type 111 permit with the local board voting three (3) to one (1) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RR27-06591 NORTH STAR BEVERAGES AND SPECIALTIES, LLC – Vice Chairperson Glass noted this is a type 210 transfer of location and ownership application with the local board voting three (3) to one (1) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the transfers. Motion seconded by Commissioner Marks and it was unanimously approved.

RR27-08432 SRC, INC. – Vice Chairperson Glass noted this is a type 210 transfer of location and ownership application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the transfers. Motion seconded by Commissioner Davis and it was unanimously approved.

RR85-84081 TED SQUIRES – Vice Chairperson Glass noted the location of this permit has been annexed into the city limits of Wabash. The permittee is requesting that this permit be converted from a type 111 permit to a type 112 permit.

Vice Chairperson Glass moved to approve this request. Motion seconded by Commissioner Davis and it was unanimously approved.

RR49-05882 EUELL ENTERPRISES, INC. – Vice Chairperson Glass noted this is a new Sunday sales application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Marks and it was unanimously approved.

RR71-95384 ALLEGRE, INC. – Hearing Judge Steiner stated he received a letter from the attorney who represents the above-referenced permittee. The attorney requested that this permit be remanded to the local board for a reinvestigation. Mr. Steiner stated he spoke to Excise Officer Sara Bewley and the local board will rehear the application.

Vice Chairperson Glass moved to approve this request. Motion seconded by Commissioner Davis and it was unanimously approved.

INACTIVE FILES

Commissioner Marks moved to make sixteen (16) permits inactive. Thirteen (13) permits are not subject to auction and three (3) permits are subject to auction. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

RR58-04551 PM LOUNGE, INC. AND RR45-19536 THE X CLUB, LLC – Chairperson DePrez stated these appeals will be assigned to a hearing officer.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

HISTORIC LANDMARKS FOUNDATION OF INDIANA MEETING AND DINNER – The Historic Landmarks Foundation of Indiana would like to serve donated alcoholic beverages at their annual meeting and dinner.

AMERICAN HEART ASSOCIATION WINE TASTING – The American Heart Association would like to host a wine tasting at the South Bend Regional Museum of Art.

STANLEY K. LACY LEADERSHIP ASSOCIATION – The Stanley K. Lacy Leadership Association would like to serve donated alcoholic beverages at their fundraiser.

WABASH CENTER OF LAFAYETTE – The Wabash Center of Lafayette would like to serve donated alcoholic beverages at their fundraiser.

DINE MAGAZINE/STUTZ ARTIST’S ASSOCIATION – Dine Magazine would like to serve donated alcoholic beverages at their Stutz Artist’s Open House fundraiser.

CHILDREN’S BUREAU OF INDIANAPOLIS, INC. WE BELIEVE IN KIDS! FUNDRAISER – The Children’s Bureau of Indianapolis would like to serve donated alcoholic beverages at their *We Believe in Kids!* fundraiser.

CHAMP CAMP SNEAKERS BALL 2002 – CHAMP Camp is requesting permission to serve donated alcoholic beverages at their *Sneakers Ball 2002*.

BLUE KNIGHTS INTERNATIONAL CONVENTION – French Lick Springs is requesting permission to serve donated alcoholic beverages at the Blue Knights International Convention.

RESTAURANT & HOSPITALITY ASSOCIATION OF INDIANA BARTENDERS BALL – The Restaurant & Hospitality Association is requesting permission for restaurants to serve samples of alcoholic beverages at their Bartender Ball.

JUNIOR LEAGUE OF INDIANAPOLIS 80TH ANNIVERSARY DIAMOND GALA – The Junior League of Indianapolis is requesting permission to serve donated alcoholic beverages at their 80th Anniversary Gala.

Commissioner Davis moved to approve these requests. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

POLICY DETERMINATIONS

Chairperson DePrez stated that she would like the Commission to look into a policy that will set out the procedures for the handling of agreements that are entered into between the prosecutor and the permittees, in cases of revocation, where the prosecutor orders the permit be transferred. She will present this policy to the Commission at a future date.

UNDER ADVISEMENT

There were no matters Under Advisement.

ANNOUNCEMENTS

The next scheduled Commission meeting will be May 6, 2002 at 2:30 p.m.

ADJOURNMENT

Vice Chairperson Glass moved to adjourn the meeting. Motion seconded by Commissioner Marks and it was unanimously approved.

Approved this _____ day of _____, 2002.

MARY DEPREZ, CHAIRPERSON

BARBARA L. GLASS, VICE CHAIRPERSON

JAMES DAVIS, COMMISSIONER

GIGI M. MARKS, COMMISSIONER